

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DAVID LAMONT MORGAN, )  
                                )  
Plaintiff,                 )  
                                )  
v.                            )              **Case No. CIV-12-379-Raw**  
                                )  
                                )  
JERRY L. TOMLINSON, et al., )  
                                )  
                                )  
Defendants.                 )

**ORDER**

Before the court are various motions. Plaintiff, appearing *pro se*, commenced this action on September 7, 2012. As to movants, he alleges a violation of 42 U.S.C. §1983 arising out of an investigation for alleged child abuse, which investigation resulted in plaintiff's arrest.

Defendant Tomlinson (the mayor of Durant, Oklahoma) has filed a motion to dismiss. In the motion, he asserts that he had no part in the investigation and that, contrary to the complaint, he is not responsible for the county courts and the city jail. Also filing a motion to dismiss are defendants Chavez and Jones, who are Durant police officers. This motion states that Chavez was involved in the investigation by interviewing various people, including plaintiff. The motion states that Defendant Jones was only involved by being present for first contact with plaintiff and for a portion of the interview. Additionally, this motion states that plaintiff has not alleged any of the requirements for a §1983 claim based upon an alleged illegal or false arrest.

“An arrest pursuant to a facially valid warrant is normally a complete defense to a federal constitutional claim for false arrest or false imprisonment made pursuant to §1983.” *Voyticky v. Vill. of Timberlake*, 412 F.3d 669, 677 (6<sup>th</sup> Cir.2005). Plaintiff has not disputed that the warrant was facially valid. Therefore, the court is not persuaded the present motions need to be converted to ones for summary judgment, despite the warrant being attached to the motions. *See Williamson v. Curran*, 714 F.3d 432, 442 (7<sup>th</sup> Cir.2013). The well-pleaded factual allegations, when taken as true and viewed in the light most favorable to the plaintiff, do not state a claim for relief that is plausible on its face. *See Casanova v. Ulibarri*, 595 F.3d 1120, 1124 (10<sup>th</sup> Cir.2010).

It is the order of the court that the motions to dismiss (##26 & 28) are hereby granted. Defendants Tomlinson, Chavez and Jones are dismissed from this action.

**ORDERED THIS 11th DAY OF OCTOBER, 2013.**



Ronald A. White  
United States District Judge  
Eastern District of Oklahoma